

Appl. No. : 10/657,022
Filed : September 5, 2003

REMARKS

Claims 1-40 are pending in the instant application. In the present communication, Applicants have amended Claims 1-18 and 40. Claims 1-40 are presented for examination.

Support for the amendments to the claims is found throughout the specification as originally filed. Accordingly, no new matter has been added by this amendment. Specific changes to the amended claims are shown in the Listing of Claims provided above.

In response to the Restriction Requirement mailed on October 10, 2006, Applicants hereby provisionally elect with traverse to prosecute the claims of **Group I**, comprising Claims 1 (parts (i)-(iv))-29 and 40, all of which are all drawn to peptides and compositions and vaccines containing said peptide and method of making a vaccine, classified in Class 514, subclass 2 and Class 530, subclass 350.

In response to the requirement to elect a single disclosed species for prosecution on the merits, Applicants provisionally elect as the species PSMA 662-671 (SEQ ID NO: 67), which is specific peptide recited in Table 1B. Claims 1-40 read on and are generic to the elected species. Pursuant to the provisions of M.P.E.P. 809.02(a), upon the allowance of a generic claim, Applicants will be entitled to consideration of claims to additional species which depend from or otherwise require all the limitations of an allowable generic claim as provided by 37 CFR 1.141. Thus, Applicants reserve the right to rejoin, as appropriate, the claims of any non-elected Groups. M.P.E.P. § 809. Applicants reserve the right prosecute any cancelled or withdrawn claims in divisional applications, if necessary, under the provisions of 35 U.S.C. § 121.

The restriction of Claims 1-40 under 35 U.S.C. § 121, as allegedly drawn to four distinct inventions, is respectfully traversed. The claims of Groups I-IV all relate to epitopes. That examination of the claims of Groups I-IV together would not result in a serious burden is evidenced by the substantial overlap of claims in the two groups.

According to the M.P.E.P., a proper restriction requirement requires that there be a serious burden on the Patent Office if required to examine the claims. § 803. A "serious burden" may be *prima facie* shown by appropriate explanation of separate classification, or separate status in the art, or a different field of search as defined in § 803.02. M.P.E.P. § 803 (guidelines for when restriction is proper). In the instant application, the Claims of Groups I-IV can be examined together with no serious burden on the Patent Office. Applicants assert that no real

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burden will be placed on the Patent Office by having to search and examine all of the claims of Groups III and IV together.

In view of the foregoing, Applicants respectfully request reconsideration and withdrawal of the Restriction Requirement with respect to Groups I-IV.

CONCLUSION

Group I has been provisionally elected with traverse. In response to the requirement to elect a single disclosed species for prosecution on the merits, PSMA 662-671 (SEQ ID NO: 67) has been provisionally elected. Applicants request withdrawal of the restriction after reconsideration in light of the foregoing remarks.

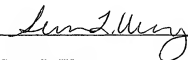
The undersigned has made a good faith effort to respond to Restriction Requirement and to place the claims in condition for immediate allowance. Nevertheless, if any undeveloped issues remain, or if any issues require clarification, the Examiner is respectfully requested to call the undersigned to discuss such issues.

Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

Respectfully submitted,

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